

**Introduced by Senator Runner**

February 19, 2008

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An act to amend Section 3212.1 of the Labor Code, relating to workers' compensation.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1271, as introduced, Runner. Workers' compensation: cancer presumption: contractor-operated fire departments.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment, and requires an employer to provide, or pay for all reasonable costs of, medical services necessary to care for or relieve work-related injuries. Existing law further provides that in the case of active firefighting members of certain state and local fire departments and in the case of certain peace officers, a compensable injury includes cancer that develops or manifests itself during the period when the firefighter or peace officer demonstrates that he or she was exposed, while in the service of the public agency, to a known carcinogen, as defined, and the carcinogen is reasonably linked to the disabling cancer. Existing law establishes a presumption that the cancer in these cases is presumed to arise out of, and in the course of, employment, unless the presumption is controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer.

This bill would extend the application of these provisions to contractor-operated fire departments, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3212.1 of the Labor Code is amended to read:

3212.1. (a) (1) This section applies to active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments: ~~(1) (A) a fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision, (2) (B) a fire department of the University of California and the California State University, (3) (C) the Department of Forestry and Fire Protection, and (4) (D) a county forestry or firefighting department or unit, and (E) a contractor-operated fire department.~~ This section also applies to peace officers, as defined in Section 830.1, subdivision (a) of Section 830.2, and subdivisions (a) and (b) of Section 830.37, of the Penal Code, who are primarily engaged in active law enforcement activities.

(2) *For purposes of this paragraph, “contractor-operated fire department” means a publicly-owned fire department operated by a private entity that has entered into an agreement with the public entity that owns the fire department to provide firefighting services.*

(b) The term “injury,” as used in this division, includes cancer, including leukemia, that develops or manifests itself during a period in which any member described in subdivision (a) is in the service of the department or unit, if the member demonstrates that he or she was exposed, while in the service of the department or unit, to a known carcinogen as defined by the International Agency for Research on Cancer, or as defined by the director.

(c) The compensation that is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer. Unless so controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be

1 extended to a member following termination of service for a period  
2 of three calendar months for each full year of the requisite service,  
3 but not to exceed 60 months in any circumstance, commencing  
4 with the last date actually worked in the specified capacity.

5 (e) The amendments to this section enacted during the 1999  
6 portion of the 1999–2000 Regular Session shall be applied to  
7 claims for benefits filed or pending on or after January 1, 1997,  
8 including, but not limited to, claims for benefits filed on or after  
9 that date that have previously been denied, or that are being  
10 appealed following denial.